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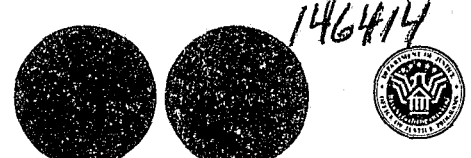
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National Institute of Justice

Research in Brief

April 1994

The Emotional Effects of Testifying on Sexually Abused Children

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Child sexual abuse presents complicated issues of physical, emotional, and psychological trauma for its victims. With the explosion in reported cases in the past decade, the criminal justice system is frequently involved as an institution through which victims can seek redress and through which society can publicly condemn the abuse of children. Being part of a court case is generally a stressful experience for adults. Picture a child in that situation—thrust into a process with

adult language, rules, and procedures and repeatedly questioned about the intimate details of an experience that is foreign to most children—one in which the child is expected to proclaim his or her victimization before an audience composed mostly of strangers.

In 1985, the Seventh National Conference on Child Abuse and Neglect opened with a point/counterpoint plenary session on the pros and cons of prosecuting child sexual

abuse cases. Among the various arguments that were raised in opposition to criminal prosecution was the belief that children are harmed by the experience.¹ Until very recently, this position has been primarily based on the observations of clinicians or other professionals who work with child victims in the courts (see Historical Overview on page 2).

Responding to a continuing widespread interest in improving the criminal justice

Issues and Findings

Discussed in this Brief: Whether testifying in judicial proceedings benefits or harms sexually abused children as examined by three studies in the mid- to late-1980's.

Key issues: The three studies of the effects of testifying on sexually abused children were:

- ◆ The North Carolina study. This study, with separate funding from the National Institute of Justice (NIJ) and the National Center on Child Abuse and Neglect (NCCAN), followed 100 child victims primarily of intrafamilial abuse who were involved in child protection hearings in a juvenile court setting.
- ◆ The Denver study. This NIJ-funded study focused exclusively on children who testified in criminal court and followed 218 children, most of whom were

sexually abused by perpetrators who were *not* living with them.

◆ The Child Victim as Witness Research and Development Program study. Funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), it explored how to successfully prosecute cases without further traumatizing child victims. Largely a replication of the North Carolina study, it, however, focused on a much larger sample of children who testified in criminal court in four jurisdictions nationwide.

Key findings: Based on these studies, it cannot be stated conclusively that testifying is either harmful or beneficial to sexually abused children. Testifying may impede the improvement process for some children (the Denver study), or it may enhance the recovery of others (the North Carolina study). One of the major reasons for the different results may have been the different contexts for

the children's testimony: criminal or child protection proceedings.

The studies did have the following similar findings:

- ◆ Before testifying, all children scored high on measures of stress and anxiety.
- ◆ Maternal support was associated with improvements in the children's mental health.
- ◆ Children who testified more than once tended not to improve as much as children who testified only once or not at all.
- ◆ Virtually all of the children improved with time, regardless of their experiences in the criminal justice system.

Target audience: Victim advocates, researchers, court administrators, judges, prosecutors, and State and local legislators.

Historical Overview of Trauma of Children Testifying

As early as 1969, Vincent DeFrancis, then Director of the Children's Division of the American Humane Society, wrote that child victims were exposed to additional trauma by the legal system, and especially by the repeated questioning that occurred during the preliminary investigation and through the time of trial.² Five years later, a survey of 38 Philadelphia judges revealed that 27 believed that testifying in sexual assault cases was traumatic for children.³ Psychiatrists have written that testifying is inherently stressful for children and possibly traumatic in itself.⁴ One psychiatrist stated that, "no matter how well the child has been prepared, testifying can cause distress."⁵

Law review articles published in 1969 and 1982 recommended numerous legal reforms on the premise that children are traumatized in court.⁶ In 1984, the Attorney General's Task Force on Family Violence also published recommended reforms predicated on the belief that child victims are "revictimized" by the criminal justice system.⁷ And, over the last decade, State legislatures have adopted a wide range of legal and procedural reforms meant to alleviate the stress that children experience while in the court system. Notably, however, all of this interest, attention, and legislative activity proceeded largely in the absence of empirical data indicating that children are, in fact, traumatized by their participation in the adjudication process.

system in ways that are beneficial to child victims, the National Institute of Justice (NIJ) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded three grants to examine empirically the emotional effects of the court process on sexually abused children. Based on their resulting final reports, this Research in Brief compares and contrasts the studies' findings, highlights points of similarity, and attempts to draw

conclusions that are of particular benefit to judges, prosecutors, victim advocates, and others who work with children in the context of criminal prosecution.

The three studies

The North Carolina study

NIJ awarded a grant to extend an earlier study, supported by the National Center on Child Abuse and Neglect (NCCAN), of 100 children who were victims of intrafamilial abuse and who were involved primarily in child protection proceedings in a juvenile court setting.

The original study focused on children between the ages of 6 and 17 whose allegations of sexual abuse had been substantiated by child protection agencies in 11 rural and urban counties. Participating children's psychological well-being was assessed twice: upon referral to the study (n=100) and 5 months later (n=76). The primary instruments that were used included the Child Assessment Schedule⁸ (CAS), which is a structured psychiatric inventory based on the child's self-report, and the Child Behavior Checklist-Parent⁹ (CBCL-P), a parental report of the child's psychological functioning that is commonly used in child abuse research.

The results, published in 1988, showed that by the time of the second interview, 12 children had testified in child protection proceedings in the North Carolina juvenile courts. Criminal charges had been brought in more than 40 of the cases, but only 22 of the cases had been resolved. Assessments of the children's mental health revealed that:

- All of the children showed some improvement over their initial intake scores, which had indicated high levels of stress and anxiety.
- Children who testified in child protection proceedings were 20 times more likely to show a significant decrease in their anxiety scores than children who had not testified.
- Children who had criminal cases still pending were 12 times less likely than children whose cases were completed or children who were not involved in the

criminal court to have shown resolution of their earlier symptoms of depression.¹⁰

With the NIJ grant,¹¹ the children's mental health was reassessed 18 months after the initial interviews (n=62). At this time:

- All of the children demonstrated further improvement in their psychological functioning.
- Children whose cases were resolved, regardless of the outcome or their level of court involvement, generally showed more improvement than children whose cases were still pending.
- The dramatic differences that were observed at the 5-month followup—between children who had testified and those who had not, and between children whose cases were pending and those whose cases were resolved—had diminished substantially.
- The level of maternal support available to the child was positively related to the child's improved mental health.

The researchers concluded that testifying in child protection proceedings actually was beneficial to some children, but that delay in the adjudication process was harmful. The results of this study have often been cited to support efforts to reduce the time lost to continuances and delays in the adjudication of criminal cases.

Nonetheless, because all children improved over the course of the 18-month study, the researchers observed that any stress caused by their involvement with the legal system appeared to be mitigated by the passage of time, as well as other interventions and life experiences.

The Denver study

This study,¹² also sponsored by NIJ, focused on children whose allegations of sexual abuse had been accepted for criminal prosecution in three counties in the Denver, Colorado, area. The children in the Denver study differed from those in the North Carolina study in one important way: unlike the North Carolina study, which involved only child victims of intrafamilial sexual abuse, most (60 percent) of the Denver area cases involved perpetrators who were *not* living in the

came home with the child at the time of the alleged abuse. Consequently, most of the children were not involved in child protection proceedings. Even in cases where child protection proceedings were instituted, the children in the Denver area were rarely asked to testify. The Denver study focused exclusively on children who testified in criminal court.

Children from 4 to 17 years of age were referred to the study by prosecutors' offices in three counties. With the CBCL-P (see above) as the centerpiece of several psychological and observational instruments, the researchers evaluated the children's mental health at four points in the adjudication process: at the time of referral to the study, 3 months after testifying, 7 months after testifying, and after case disposition. (For some children, case disposition preceded one or both of the interim testing points, and so they were not evaluated four times.) A total of 218 children participated in the study, which covered the period September 1985 through December 1987. Using a "matched pair" design, children who testified at any proceeding—whether a competency hearing, preliminary examination, other pretrial hearing, or trial—were matched on several key demographic and case characteristics with children who had not testified. There were 46 matched pairs at the 3-month followup, 37 pairs at the 7-month followup, and 28 pairs at the final followup. Only 19 children testified at trial, but when other pretrial hearings were considered, a total of 60 children ultimately gave court testimony.

Followup assessments of the children's mental health revealed that:

- Three months after testifying, there was no significant difference in improvement over initial intake levels of stress and anxiety between children who testified and children who had not testified.
- Seven months after testifying, children who testified showed significantly *less* improvement than their counterparts who did not testify.
- At the final followup, after case disposition, there was again no significant difference between children who testified and

Evaluation Instruments of Children's Mental Health

The Child Assessment Schedule (CAS) and the Child Behavior Checklist-Parent (CBCL-P) were the primary instruments used to evaluate the mental health status of the sexually abused children in these studies.

The CAS, a semistructured psychiatric interview, consists of 189 questions with standardized probes, organized in content areas including: school, friends, activities, fears, worries, self-image, family, somatic complaints, mood, and conduct disorder. It is possible to generate a total psychopathology score, as well as scores for the various content areas, and scores

for symptom scales such as depression and anxiety. The original instrument was supplemented with brief content areas on memories of abuse and future orientation.

The CBCL measures children's psychological adjustment in terms of social competency and disruptive behavior; it was used in the format designed to be answered by parents, guardians, or other caregivers. This instrument seeks responses in such areas as internalizing behavior problems (e.g., depression, somatic complaints) and externalizing behavior problems (e.g., delinquency, aggressiveness).

Exhibit 1. Essential Components of Three Studies of Child Sexual Abuse Cases in the 1980's

	State of North Carolina	Denver, Colorado	Child Victim as Witness Research and Development Program
Number of Children Examined	62-100*	218	256
Ages	6-17	4-17	4-17
Characteristics of Cases	Victims of intrafamilial abuse	Victims primarily (60%) of extrafamilial abuse	Victims primarily (57%) of intrafamilial abuse
Nature of Proceedings	Child protection hearings in juvenile court	Criminal court prosecutions	Criminal court prosecutions
Number of Mental Health Assessments	<ul style="list-style-type: none"> ● After case substantiated by child protection agency ● 5 months later ● 18 months later 	<ul style="list-style-type: none"> ● After case accepted for prosecution ● 3 months after testifying ● 7 months after testifying ● After case disposition 	<ul style="list-style-type: none"> ● After case referred for prosecution ● 7 to 9 months later

*100 completed the first interview; 76 completed the second; 62 completed the third.

children who did not testify, although some of the testifiers still exhibited some adverse effects in the form of increased behavioral disturbances.

- Maternal support, measured at the time children initially disclosed the abuse, was positively related to improvements in the children's well-being.

The researchers concluded that testifying in criminal court has adverse effects on some children but, for most children, these effects appear to diminish with time. Children who testified more than once did not improve as much, as measured by their scores on the CBCL-P, as their counterparts who testified only once or not at all. Unlike the North Carolina study, the Denver study found no adverse effects associated with delay in the adjudication process.

The OJJDP study

The Child Victim as Witness Research and Development Program was funded by OJJDP to explore this question: how can child sexual abuse cases be prosecuted effectively without imposing additional

An Additional Look at Whether the Legal System Helps Child Victims

In a study, reported in 1987, 48 questionnaires were filled out and returned by children (or adults on their behalf) whose allegations of sexual abuse had been adjudicated by the Iowa criminal courts. Children and youths (aged 4 to 22, with an average age of 13) were asked about the investigation process, whether the case had gone to court, and whether they had testified. They were also asked whether they found the system to be helpful or harmful. Overall, a greater percentage of the victims rated the legal system helpful (53 percent) than harmful (21 percent). Additional analysis revealed that children who testified and children who experienced multiple interviews rated the process less helpful than children who did not testify or who experienced fewer interviews.¹³

trauma on the victims? This study,¹⁴ which was carried out on cases reported from June 1988 through October 1989 in four large jurisdictions, was essentially a replication of the North Carolina study, but with a much larger sample and a focus on children who testified in criminal court.

Child sexual abuse cases were identified by prosecutors' offices in Erie County (Buffalo), New York; Polk County (Des Moines), Iowa; Ramsey County (St. Paul), Minnesota; and San Diego County, California. Children were interviewed using the Child Assessment Schedule (CAS) and the CBCL-P, among other instruments, shortly after their cases were referred for prosecution and again between 7 and 9 months later. A total of 256 children completed both interviews.

Analysis of child interview data indicated that:

- Sexually abused children were highly distressed at the time of the initial interview, regardless of whether the perpetrators were intrafamilial or extrafamilial.
- At the followup interview, a majority of the children demonstrated improvement over their initial test scores.
- Testifying did not, in itself, have a significant effect on children's mental health. However, a significant adverse effect was found among children who testified more than once or who experienced lengthy or harsh cross examination.
- According to parental reports, testifying was far less stressful for younger children (less than 8 years old) than it was for older children.
- Maternal support strongly predicted the child's mental health status at the followup interview.

This study did not examine the effects of delays or continuances on the children's psychological well-being. Because there was no long-term followup interview, the study also did not examine whether any observed effects of testifying might change over time.

Summary of the studies' findings

To summarize, the three studies appear to agree that:

- At initial testing, prior to their involvement in the court process, children score high on measures of stress and anxiety.
- Most children tend to improve with time, regardless of their experience in court.
- Maternal support is associated with improvements in these children's mental health.

Despite these similarities in the studies' findings, there are also some important differences with respect to two critical questions:

What is the impact of delay in case resolution on children's mental health? The North Carolina study suggests that it impedes the children's improvement. The Denver study found no adverse effect associated with delay. The OJJDP study did not examine this question.

What is the impact of testifying on children's mental health? The North Carolina study found significant improvements among children who testified in child protection proceedings, compared to children who did not testify or whose cases were pending in criminal court. The Denver study found that, at the 7-month followup, children who testified had improved significantly *less* than their counterparts who did not testify. The OJJDP study found adverse effects only among children who testified more than once or who underwent severe cross examination.

In essence, the North Carolina study suggests that testifying in child protection proceedings may be beneficial for children, whereas the other studies indicate that testifying in criminal court may have adverse effects for some children. What accounts for these differences?

Differences in findings

With support from NIJ, the principal investigators of the Denver and North Carolina studies reanalyzed their data to explore

whether the different findings could be explained by any of three factors:

- The statistical techniques that were employed.
- Measurement of the children's psychological status based on the children's self-reports versus the nonoffending parents' assessments.
- The intrafamilial nature of all the North Carolina cases versus the predominantly extrafamilial abuse in the Denver cases.

None of these factors accounted for the differences observed in the research findings.

Perhaps the most compelling difference among the three studies is one that could not be examined by reanalyzing the available data. This difference is *the context of the children's testimony*. The children in North Carolina testified in child protection proceedings in a juvenile court setting, whereas the children in Denver and in the OJJDP study testified in criminal court. Arguably, the experience of testifying in child protection proceedings may be qualitatively different than the experience of testifying in criminal court for several reasons.

The two courts have very different mandates. The purpose of child protection proceedings is to determine whether abuse occurred, whether the child remains at risk, and whether protective actions are necessary. These proceedings are child-centered, with a goal of resolving the case in a way that serves the best interests of the child. In contrast, the purpose of criminal court proceedings is to obtain a verdict on an adult defendant's guilt or innocence. Although the child is the alleged victim, and therefore a principal witness, the criminal court is offender-oriented. Unlike child protection proceedings, in which the most severe outcome involves removing the child from the home, in criminal cases the defendant's liberty is at stake. To guard against the possibility of mistakenly imprisoning an innocent person, the U.S. Constitution offers numerous protections for the rights of criminal defendants. There are no constitutional protections for witnesses.

Child protection proceedings are civil cases. The burden of proof in a civil case is less stringent (typically, proof by "a preponderance of the evidence") than in a criminal case, which must be proven "beyond a reasonable doubt." Accordingly, the rules of evidence and procedure are more relaxed in child protection proceedings: the courtroom is closed to the public; hearsay restrictions are less prohibitive; in most jurisdictions, children may not be required to testify at all (although children in North Carolina routinely testified at the time of that study); and when they do testify, it often takes place in the judge's chambers.

The adjudication of criminal cases is an adversarial process. Of the differences in the court environments, this is perhaps the most important distinction since witnesses in criminal cases are expected to face defendants in court and to submit to cross examination. By contrast, the child protection proceeding is meant to encourage development of a case plan that is agreeable to all parties, with the ultimate goal of ensuring a safe environment for the child. Hearings are usually less confrontational, and children are rarely subject to cross examination.

These differences between criminal proceedings and child protection proceedings may help to explain why the children in the North Carolina study appeared to benefit from testifying while their counterparts in the other studies did not. None of these studies directly examined whether the court setting had any effect on the children's mental health outcomes.

A next step might be to focus on children who testify in both settings and to assess the children's capacity to distinguish and appreciate the factors that differentiate between them. Are children, in fact, more comfortable in a child protection hearing? Are they aware that they are the focus of the proceedings and that the goal is to protect them and improve their lives? Or, are the good intentions of the child protection process substantially obscured by the implicit authority of adults in *any* context? Such a study would be difficult to con-

struct because so few children actually testify in both proceedings; laboratory analogues might be revealing but, by necessity, would lack the emotional intensity of a real-life situation.

Regardless of the differences between the courts, and among the findings of the three studies described above, when taken together, the available research suggests that *testifying, in itself, may not be traumatic for most children*. Adverse effects appear to be associated with particularly negative experiences (such as repeated testimony or harsh cross examination), and further, to dissipate with time.

Implications for policy and practice

Based on the results of these studies, it cannot be stated conclusively that testifying is either harmful or beneficial to sexually abused children. One consistent and encouraging finding should be highlighted. Virtually all of the children improved emotionally, regardless of their experiences in court. At worst, testifying may impede the improvement process for some children (as the Denver study found); at best, it may enhance their recovery (as the North Carolina study found).

Only a small number of children appeared to suffer long-term trauma from the experience of testifying. It is possible that some of the more severely traumatized children elected not to participate in the research or were denied the opportunity to testify because they were not found competent. These studies could not assess whether such children differed in their reactions to the experience of testifying from other children who were *less* severely affected by their abuse. In counterpoint, it should be noted that some of the children in the Denver study regretted that they had *not* testified. These were children who felt some responsibility for their abuse, who had been abused before, or whose cases ended in a not-guilty verdict.

Long-term followup research, including direct interviews with the children, is the next step toward determining whether

testifying has any lasting effect. In the meantime, the available research suggests that many children can weather the experience reasonably well. Some intriguing research results are worth pursuing.

Innovations in courtroom procedures.

There are indications from the Denver study that the relaxed rules of evidence and procedure that are typical of the juvenile court may be beneficial for children in criminal court. Specifically, children in the Denver study appeared to benefit when the courtroom was closed to spectators and when a parent, other loved one, or victim advocate was present during their testimony. (Other innovative techniques, such as testifying via videotape or closed-circuit television, were used too infrequently to analyze.)

In reality, of course, the U.S. Supreme Court has ruled that certain innovations—closing the courtroom¹⁵ and alternatives to confrontation¹⁶—can be available only to children who will suffer serious emotional trauma if made to testify in a traditional environment. The Denver study provides some evidence that certain children deserve special attention and, perhaps, consideration of appropriate interventions to help them testify. These are children who were more severely abused, lacked family support, were interviewed repeatedly during the investigation process, or expressed fear of the defendant in court.

Focus on mothers of victims. Since maternal support was consistently found to be an important factor contributing to children's psychological well-being, it follows that if personnel in the justice system *direct greater attention to the mothers' needs*, the mothers, in turn, will be better able to support their children. A study supported by the National Center on Child Abuse and Neglect found that assistance from professionals (including law enforcement officers, prosecutors, medical personnel, therapists, counselors, case-workers, victim advocates, and clergy) was related to the mothers' ability to provide emotional sustenance for their sexually abused children.¹⁷

Limit the number of hearings. In all the studies, children who testified more than once tended not to improve as much as children who testified only once or not at all. To the extent possible, prosecutors should seek to *waive unnecessary court appearances* by, for example, initiating cases via the grand jury, rather than a preliminary hearing, or by holding competency hearings immediately preceding a child's testimony, rather than as a separate appearance. (In many States, of course, children are presumed competent,

and the hearing should be completely unnecessary.)

Other innovations, identified in the OJJDP study, are shown in exhibit 2.

In sum, although research to date has not revealed substantial long-term negative effects of testifying on most child victims, it has shown that some children need assistance in undergoing the criminal justice process to avoid suffering further harm.

Exhibit 2. Sample Interventions From Sites Participating in the Child Victim as Witness Research and Development Program

Polk County (Des Moines)

Included extrafamilial cases in team case review.

Instituted a special screening attorney for child abuse cases.

Tightened eligibility requirements for the Intra-Familial Sexual Abuse Program, a pretrial diversion alternative for certain first-time offenders.

Erie County (Buffalo)

Initiated cases via the grand jury rather than preliminary hearing.

Developed a master protocol to guide case referrals across agencies.

Elevated the Child Abuse Unit to Trial Bureau status in the District Attorney's office.

Established a child abuse diagnostic clinic within Erie County Medical Center.

Established a Coordinating Council on Family Violence under the auspices of the Sheriff's Department.

Ramsey County (St. Paul)

Expanded the prosecution unit to include all cases involving children as victims or perpetrators.

Enlarged the proactive role of the victim/witness assistance unit.

Enacted legislation imposing harsher penalties for most sex offenses and expanding victim rights.

San Diego County

Expanded the Children in Court education program.

Enacted a "resident child molester" law to enable prosecution of ongoing abuse when dates cannot be specified.

Enacted a new Department of Social Services regulation permitting temporary placement of children with relatives.

Documented case management protocols.

Notes

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Findings and conclusions of the research reported here are those of the authors and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

The National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention are components of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, Bureau of Justice Statistics, and the Office for Victims of Crime.

NCJ 146414

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